

AMENDED IN ASSEMBLY JULY 6, 2015

AMENDED IN ASSEMBLY JUNE 10, 2015

SENATE BILL

No. 533

Introduced by Senator Pan

February 26, 2015

An act to repeal and add Section 53084.5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 533, as amended, Pan. Cities and counties: sales and use tax agreements.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law. That law provides that for the purpose of a local sales tax adopted pursuant to that law, all retail sales are consummated at the place of business of the retailer unless otherwise specified.

Existing law prohibits a local agency, as defined to mean all cities and counties, from entering into any form of agreement with any other person that would involve the payment, transfer, diversion, or rebate of any amount of Bradley-Burns local tax ~~proceeds~~ *revenues* for any purpose if the agreement results in a reduction in the amount of revenue that is received by another local agency from a retailer that is located within the territorial jurisdiction of that other local agency, and the retailer continues to maintain a physical presence within the territorial jurisdiction of that other local agency, with specified exceptions, including an exception for an agreement to pay or rebate any Bradley-Burns local tax revenue relating to a buying company, as defined.

This bill would repeal that prohibition and instead prohibit, on or after January 1, 2016, a local agency from entering into any form of agreement that would result, directly or indirectly, in the payment, transfer, diversion, or rebate of Bradley-Burns local tax ~~proceeds~~ *revenues* to any person, as defined, for any purpose, if the agreement results in a reduction in the amount of Bradley-Burns *local tax* ~~proceeds~~ *revenues* that, in the absence of the agreement, would be received by another local agency and the retailer continues to maintain a physical presence within the territorial jurisdiction of that other local agency, with specified exceptions. This bill would also impose specified notification and reporting requirements on a local agency entering into an agreement that results in a reduction of the amount of Bradley-Burns *local tax* ~~proceeds~~ *revenues*, that in the absence of the agreement, would be received by another local agency, prior to the ratification of that agreement. This bill would also require any local agency to post such an agreement on its Internet Web site, including any agreements entered into prior to ~~the effective date of this bill~~ *January 1, 2016*, that are still in effect. By imposing these notification and reporting requirements on a local agency, this bill would impose a state-mandated local program. This bill would exclude from these provisions ~~a local agency that has a mutual tax revenue sharing agreement with each local agency that would be affected by the form of agreement generally prohibited by these provisions:~~ *any mutual tax revenue sharing agreement between local agencies to pay, transfer, or divert Bradley-Burns local tax revenues to another local agency, and where the agreement would not result, directly or indirectly, in the payment, transfer, diversion, or rebate of those tax revenues to a retailer.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53084.5 of the Government Code is
2 repealed.

3 SEC. 2. Section 53084.5 is added to the Government Code, to
4 read:

5 53084.5. (a) On or after January 1, 2016, a local agency shall
6 not enter into any form of agreement that would result, directly or
7 indirectly, in the payment, transfer, diversion, or rebate of any tax
8 revenue resulting from the imposition of a sales and use tax under
9 the Bradley-Burns Uniform Local Sales and Use Tax Law (Part
10 1.5 (commencing with Section 7200) of Division 2 of the Revenue
11 and Taxation Code) to any person for any purpose when both of
12 the following apply:

13 (1) The agreement results in a reduction in the amount of
14 revenue under the Bradley-Burns Uniform Local Sales and Use
15 Tax Law that, in the absence of the agreement, would be received
16 by another local agency.

17 (2) The retailer continues to maintain a physical presence within
18 the territorial jurisdiction of that other local agency.

19 (b) (1) A local agency entering into an agreement that results
20 in a reduction of the amount of revenue under the Bradley-Burns
21 Uniform Local Sales and Use Tax Law that, in the absence of the
22 agreement, would be received by another local agency shall post
23 the proposed agreement on its Internet Web site for at least 30
24 days prior to ratification or approval of that agreement by its
25 governing body.

26 (2) A local agency entering into an agreement that results in a
27 reduction of the amount of revenue under the Bradley-Burns
28 Uniform Local Sales and Use Tax Law that, in the absence of the
29 agreement, would be received by another local agency shall notify
30 the other local agency by certified mail addressed to the attention
31 of the chief executive of that other local agency at least 60 days
32 prior to ratification or approval of that agreement by its governing
33 body.

34 (3) A local agency shall post any agreement on its Internet Web
35 site it has entered into that results in a reduction of the amount of
36 revenue under the Bradley-Burns Uniform Local Sales and Use
37 Tax Law that, in the absence of the agreement, would be received
38 by another local agency, including any agreements entered into

1 prior to ~~the effective date of this section~~ *January 1, 2016*, that are
2 still in effect *on and after that date*.

3 (c) For the purposes of this section, the following terms have
4 the following meanings:

5 (1) “Local agency” means a chartered or general law city, a
6 chartered or general law county, or a city and county, of this state.

7 (2) “Person” means a person as defined in Section 6005 of the
8 Revenue and Taxation Code.

9 (3) “Physical presence” means the lease or ownership of any
10 real property for the purpose of carrying on business operations.

11 (4) “Retailer” means a retailer as defined by Section 6015 of
12 the Revenue and Taxation Code.

13 (d) This section shall not apply to any agreement by a local
14 agency to pay or rebate any use tax revenue resulting from the
15 imposition of a use tax under the Bradley-Burns Uniform Local
16 Sales and Use Tax Law relating to a use tax direct payment permit
17 issued under Section 7051.3 of the Revenue and Taxation Code.

18 (e) This section shall not be interpreted to limit the ability of a
19 local agency to contract with or otherwise enter into an agreement
20 pursuant to subdivision (b) of Section 7056 of the Revenue and
21 Taxation Code.

22 (f) This section shall not apply to ~~a local agency that has a~~
23 ~~mutual tax revenue sharing agreement with each local agency that~~
24 ~~would be affected by the form of agreement prohibited by~~
25 ~~subdivision (a):~~ *any mutual tax revenue sharing agreement between*
26 *local agencies to pay, transfer, or divert tax revenues that would*
27 *be received by a local agency resulting from the imposition of a*
28 *sales and use tax under the Bradley-Burns Uniform Local Sales*
29 *and Use Tax Law to another local agency, and where the*
30 *agreement would not result, directly or indirectly, in the payment,*
31 *transfer, diversion, or rebate of those tax revenues to a retailer.*

32 SEC. 3. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.

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